

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Mason Harris, :
 :
Plaintiff, :
 :
v. : Case No. 2:05-cv-0938
 :
Mr. Alan Lazaroff, et al., : JUDGE HOLSCHUH
 :
Defendants. :

MEMORANDUM AND ORDER

Plaintiff, Mason Harris, a state prisoner, filed this 42 U.S.C. §1983 action attacking both an institutional conviction entered against him in 2004 and a separation order (as well as various proceedings related to the separation order) having to do with his transfer to various institutions as a result of a need to separate him from another inmate with whom he had a prior altercation. As reflected in the Magistrate Judge's order of September 11, 2006, at the time he filed this action, Mr. Harris had previously had three cases dismissed under circumstances which qualify as "strikes" under the Prison Litigation Reform Act, and he was therefore required to pay the complete filing fee for this case. 28 U.S.C. §1915(g). That same order noted that he had erroneously been permitted to proceed by payment of the filing fee in installments, and that prior erroneous order was revoked. Mr. Harris was given 30 days within which to pay the full filing fee. He has now filed objections to that order as well as a motion for reconsideration.

In his motion for reconsideration and his objections, Mr. Harris appears to argue that he should be excused from the need to pay the full filing fee because he is under a threat of imminent danger. The Court has closely reviewed his objections

and concludes that the danger which he cites, having to do with an altercation with another inmate in 1998, is, first of all, not imminent. Although Mr. Harris may have been in some danger when he was transferred to the Warren Correctional Institution, it appears that he is now at the Southern Ohio Correctional Facility in Lucasville and is not likely to have contact with the prior inmate. Although he claims that he should be granted protective custody, there is no evidence that he is under a threat of attack at the Southern Ohio Correctional Facility or that prison officials are unaware of the prior separation order and the need to place him in protective custody if necessary. He has held that status before.

Mr. Harris also has provided lengthy information concerning his medical condition. His medical condition was not raised in the original complaint. Further, it does not appear from the evidence which he has supplied that he is in any imminent danger as a result of any inadequate medical care. Rather, it appears that he is being given medical care to address his current medical concerns. Thus, he has simply not demonstrated the type of risk of imminent injury which would excuse the filing fee requirement set forth in §1915(g).

Based upon the forgoing, plaintiff's motion for reconsideration and his objections (§s 8 and 9) are DENIED AND OVERRULED. The Magistrate Judge's order is AFFIRMED. Plaintiff shall submit the balance of the filing fee, which is now \$228.40, within 30 days of the date of this order. If he fails to do so, this case will be dismissed.

Date: October 25, 2006

/s/ John D. Holschuh
John D. Holschuh, Judge
United States District Court